



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,993	09/30/2003	David A. Daugherty	017109.0411	7254
5073	7590	09/19/2005	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			NGUYEN, CAMTU TRAN	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/676,993	Applicant(s) DAUGHERTY ET AL.	
	Examiner Camtu T. Nguyen	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-16 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) 24-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-16, 19-23 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This Office Action is in response to applicant's amendment filed on August 22, 2005. Claims 1, 5, 6, 7, 11-16, and 20 have been amended. Claims 4, 17, and 18 have been cancelled. The claims, as amended, have been carefully considered but deemed not allowable in view of newly discovered references as applied below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 6, 13-16, 19-23, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kordis (U.S. Patent No. 4,254,766) in view of Torrey et al (U.S. Patent No. 6,763,554). Kordis discloses in Figures 1-7 a splint (10) comprising elements as recited in these claims including a longitudinal support (2) having slots (10, 11), each slot of which has a slot width, strap ends (5) engaging through slots (10) and looping through slots (11) and emerging therethrough to form straps (3, 4) and terminating in end strap (7) with hook surface (8) thereon. Figure 1 illustrating the straps (3, 4) having a width that is less than the width of the slots (10, 11). The Kordis device does not teach at least one T-shaped strap, as recited. Torrey et al discloses in Figures 4a and 4b T-shaped tie having a tab (14) at one end and a tail end (19) at the other end and the tie having a

Art Unit: 3743

hook surface (18) on one surface and a loop surface (20) on the other surface. The tail end (19) is capable of inserting through a hole and retained in place by the tab (14). Therefore it would have been obvious to one skilled in the art to modify the Kordis's strap (3, 4) to include a tab as taught by Torrey et al as such would form a T-shaped strap for the purposes of removeably retaining the tab end of the strap relative to the splint device.

Claims 1, 5, 6, 13-16, 19-23, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates et al (U.S. Patent No. 4,562,834) in view of Torrey et al (U.S. Patent No. 6,763,554). Bates et al discloses in Figures 1-4 a limb covering device (10) made up of two sheets sealed together, the device comprising tabs (22) having openings (24) therein to receive strap members (34). Figure 4 illustrates one end (38) of strap (34) is removably inserted in opening (24) and is retained in a D-shaped ring (39) and Bates et al discloses the strap (34) is made of neoprene closed-cell rubber material which is capable of "cling" to itself for securing the other end of the strap (34) about a limb. Figures 3 and illustrating the strap (34) having a width that is less than the width of the openings (24). The Bates et al device does not teach at least one T-shaped strap, as recited. Torrey et al discloses in Figures 4a and 4b T-shaped tie having a tab (14) at one end and a tail end (19) at the other end and the tie having a hook surface (18) on one surface and a loop surface (20) on the other surface. The tail end (19) is capable of inserting through a hole and retained in place by the tab (14). Therefore it would have been obvious to one skilled in the art to modify the Bates et al's strap (34) to include a tab as taught by Torrey et al as such would form a T-shaped strap for the purposes of removeably retaining the tab end of the strap relative to the limb device.

Art Unit: 3743

Claims 1, 5-10, 13-16, 19-23, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (U.S. Patent No. 3,745,998) in view of Torrey et al (U.S. Patent No. 6,763,554). Rose discloses in Figure 1 a rigidifiable and collapsible support utilized as orthopedic casts and slings comprising a closed envelope (36) formed by upper sheet (31) and lower sheet (30) and is filled with particles (37). The device is wrapped firmly about the patient's limb and is secured by "Velcro" hook fabric straps (39). The device further comprising tubing (42) to permit air or gas to inflate or exhaust from the device. Figure 24 illustrates another embodiment of the device comprising a plurality of carrying handles (81). Figure 24 also illustrates the plurality of carrying handles (81) are arranged in pairs about the periphery of the envelope (76). The Rose device as illustrates in Figure 24, however, does not teach at least one T-shaped straps, as recited. Torrey et al discloses in Figures 4a and 4b T-shaped tie having a tab (14) at one end and a tail end (19) at the other end and the tie having a hook surface (18) on one surface and a loop surface (20) on the other surface. The tail end (19) is capable of inserting through a hole and retained in place by the tab (14). Therefore it would have been obvious to one skilled in the art to utilize the Torrey et al's T-shaped tie in Rose's carrying handles (81) for the purposes of removeably retaining the tab end of the strap relative to the closed envelop (36).

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (U.S. Patent No. 3,745,998), modified by Torrey et al (U.S. Patent No. 6,763,554) above, and further in view of Varona et al (U.S. Patent No. 6,838,154). Rose, modified above by Torrey et al above disclose a rigidifiable and collapsible support utilized as orthopedic casts and slings comprising a closed envelope (36) and elements set forth in these claims but does not teach a side of the envelope (36, 76) is an embossed material, as recited. Varona et al discloses an outer

Art Unit: 3743

cover is typically formed of a thin thermoplastic film, such as polyethylene film, which is substantially impermeable to liquid. Varona et al further discloses the polyethylene film outer cover may be embossed (column 22 lines 4-41). Therefore it would have been obvious to one skilled in the art make the upper sheet (30) of Rose's envelope (36, 76) using Varona et al's material as such would permit air to flow to the patient's limb.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (U.S. Patent No. 3,745,998) in view of Torrey et al (U.S. Patent No. 6,763,554) above, and further in view of Ross et al (U.S. Patent No. 5,743,878). Rose, as modified above Torrey et al above disclose a rigidifiable and collapsible support utilized as orthopedic casts and slings comprising a closed envelope (36) and elements set forth in these claims but does not teach a filter, as recited. Ross et al discloses a filter in the tubing line (column 5 lines 15-17). Therefore it would have been obvious to one ordinary skill in the art to place a filter in Rose's tubing (42) as such would retain the particles (37) inside the envelope (76).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (U.S. Patent No. 3,745,998) in view of Torrey et al (U.S. Patent No. 6,763,554) above, and further in view of Ross et al (U.S. Patent No. 5,743,878). Rose, as modified above Torrey et al above disclose a rigidifiable and collapsible support utilized as orthopedic casts and slings comprising a closed envelope (36) and elements set forth in these claims but does not teach a clamp, as recited. Ross discloses in Figure 5 a tube (20) through which treatment fluid is infused and an occluder (104) preferably a clamp external to the tube (20) that which operates by pinching off the tube (20) to close it and releasing from the tube (20) to open it (column 8 lines 1-10 and column 12 lines 1-

Art Unit: 3743

4). Therefore it would have been obvious to one skilled in the art to install an occluder taught by Ross et al external of Rose's tube (42) as such would regulate air flow.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-499. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Camtu Nguyen
September 13, 2005



Henry Bennett
Supervisory Patent Examiner
Group 3700